

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**Determination That *Harperocallis flava* Is an Endangered Species**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service determines *Harperocallis flava* (Harper's beauty) to be an Endangered species. *Harperocallis flava* is known to occur in three locations in the Apalachicola National Forest in Florida. The Forest Service is actively managing two of these locations for perpetuation of this monotypic genus of lily. There is estimated to be less than 100 individuals of this species, which places it in a very vulnerable position. Changes in current land management, accidental loss, vandalism, and/or overcollecting could easily lead to the extinction of this species.

A determination of *Harperocallis flava* to be an Endangered species would implement the protection provided by the Endangered Species Act of 1973 as amended.

**DATE:** This rulemaking becomes effective on November 1, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Harold J. O'Connor, Acting Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202/343-4646.

**SUPPLEMENTARY INFORMATION:****Background**

The Secretary of the Smithsonian Institution, in response to Section 12 of the Endangered Species Act, presented his report on plant species to Congress on January 9, 1975. This report designated as House Document No. 94-51, contained lists of over 3,100 U.S. vascular plant taxa considered to be endangered, threatened, or extinct. On July 1, 1975, the Director published a notice in the *Federal Register* (40 FR 27823-27924) of his acceptance of the report of the Smithsonian Institution as a petition to list these species under Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within as well as any habitat which might be determined to be critical.

On June 16, 1976, the Service published a proposed rulemaking in the *Federal Register* (41 FR 24523-24572) to determine approximately 1,700 vascular

plant species to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the above mentioned *Federal Register* publication.

*Harperocallis flava* was included in both the July 1, 1975, notice of review and the June 16, 1976, proposal. A public hearing on the June 16, 1976, proposal was held on August 4, 1976, in Washington, D.C. In the June 24, 1977, *Federal Register*, the Service published a final rulemaking (42 FR 32373-32381, to be codified at 50 CFR Part 17) detailing the regulations to protect Endangered and Threatened plant species. The rules established prohibitions and a permit procedure to grant exemptions to the prohibitions under certain circumstances. The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and CFR 14.

**Summary of Comments and Recommendations**

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the *Federal Register* prior to adding any species to the List of Endangered and Threatened Wildlife and Plants.

Hundreds of comments on the general proposal of June 16, 1976, were received from individuals, conservation organizations, botanical groups, and business and professional organizations. Few of these comments were specific in nature in that they did not address individual plant species. Most comments addressed the program or the concept of Endangered and Threatened plants and their protection and regulation. These comments are summarized in the April 26, 1978, *Federal Register* publication which also determined 13 plant species to be Endangered or Threatened species (43 FR 17909-17916). The Governor of Florida was notified of the proposed action but submitted no comments on the action.

Four comments were received concerning *Harperocallis flava*. An industrial forest corporation commented that they concurred with Endangered status for this species. One comment from a professional botanist noted the species' limited distribution and conjectured on the possibility of its extinction. One comment from an Army Corps of Engineers resource manager noted the species' type locality, its rarity, and possible management techniques. A request from the Forest

Service for a consultation concerning management of the species in the Apalachicola National Forest was also received.

**Conclusion**

After a thorough review and consideration of all the information available, the Director has determined that *Harperocallis flava* McDaniel (Harper's beauty) is in danger of becoming extinct throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act.

These factors and their application to *Harperocallis flava* are as follows:

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* Since it was described in 1968, three populations of this monotypic genus have been found. All three occur within a 32 kilometer stretch along SR-65 in Franklin and Liberty Counties, Florida. Two of these locations are within 0.5 kilometer of each other in Franklin County, while the third was reported about 32 kilometers north in Liberty County. Recent attempts to relocate this Liberty County population have not been successful. The total number of individuals is not known but has been estimated to be less than 100 plants.

The two Franklin County populations are located so close together they could easily be considered as one population but for the purposes of this rulemaking will be treated as two. Both are located on the Apalachicola National Forest within the area which is managed as the *Harperocallis* Botanical Area. The U.S. Forest Service currently manages this area for the perpetuation of *Harperocallis flava*. Any other uses of this area in the future, especially drainage to allow timber production or mechanical site preparation would threaten the continued existence of this species. The Liberty County location also occurs with the Apalachicola National Forest. If future searches verify an extant population at this site, it should then also be included in the botanical area.

Any drainage in the surrounding area which would effect the water level where these plants are found would threaten the continued existence of this species. The Forest Service includes this precaution in their management suggestions for the Botanical Area.

Both populations occur immediately adjacent to the road and thus are more vulnerable to accidental loss.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Many individuals and societies collect and and cultivate lilies.

*Harperocallis flava* is a monotypic genus of lily with a very restricted distribution and would be of considerable interest of lily enthusiasts. Since *Harperocallis flava* only occurs in three small populations all within Apalachicola National Forest and since there is estimated to be fewer than 100 individuals of the species known, any collecting or vandalism could greatly impact this species.

(3) *Disease or predation* (including grazing). Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms*. Although the species has been included by the Florida Committee on Rare and Endangered Plants and Animals as an endangered species it is not currently protected by any Florida State legislation. Forest Service regulations prohibit removing, destroying, or damaging any plant that is classified as a threatened, endangered, rare or unique species (42 FR 2956-2962).

(5) *Other natural or manmade factors affecting its continued existence*. Since this species occurs in very open wet areas, natural succession of the community in which it occurs could eliminate the proper conditions for its survival. Periodic controlled burning to maintain a relatively open aspect in the shrub and herb layers of the community would probably be beneficial to *Harperocallis flava*. The Forest Service is carrying out prescribed burns at the site.

The extremely limited range and small population sizes both increase the possibility of loss of all or a significant portion of the individuals as a result of any accidental occurrence or natural catastrophe.

#### Effect of the Rulemaking

Section 7(a) of the Act as amended in 1978 provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to Section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of

Section 7 of the Endangered Species Act Amendments of 1978.

Provisions for Interagency Cooperation are published in 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7(a) of the Act. This rulemaking requires Federal agencies to satisfy these statutory and regulatory obligations with respect to this species.

Endangered Species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered Species. The regulations referred to above, which pertain to plant species, are found at § 17.61 and are summarized below.

All provisions of section 9(a)(2) of the Act, as implemented by § 17.61 (42 FR 32373-32381), would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdictions of the United States to import or export, or to deliver, receive, carry, transport or ship in interstate or foreign commerce in the course of a commercial activity, or to sell or offer for sale in interstate or foreign commerce this plant. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in **Federal Register** of June 24, 1977 (42 FR 32373-32381), to be codified in 50 CFR Part 17, provide for the issuance of permits under certain circumstances to carry out otherwise prohibited activities involving endangered plants.

#### Effect Internationally

In addition to the protection provided by the Act, the Service will review the status of this species to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendices to that Convention and whether it should be considered under other appropriate international agreements.

#### National Environmental Policy Act

An environmental assessment has been prepared and is on file in the

#### § 17.12 Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion endangered			
Liliaceae—Lily family:						
<i>Harperocallis flava</i> .....	Harper's beauty.....	USA(FL).....	Entire .....	E .....		NA

Dated: September 17, 1979.

Robert S. Cook,

Deputy Director, Fish and Wildlife Service.

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Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

#### Endangered Species Act Amendments of 1978

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

At the time any such regulation [to determine a species to be an Endangered or Threatened species] is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

*Harperocallis flava* could be further threatened by taking or vandalism, activities not prohibited by the Endangered Species Act of 1973. Publication of critical habitat maps would make this species more vulnerable and therefore it would not be prudent to determine critical habitat.

*Harperocallis flava* was proposed on June 16, 1976, and since critical habitat is not being determined for this species, none of the other amended subsections are applicable. Accordingly, the Service is proceeding at this time with a final rulemaking to determine this species to be Endangered pursuant to the Endangered Species Act of 1973, as amended. This rule is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884).

The primary author of this rule is Ms. E. La Verne Smith, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703/235-1975).

#### Regulation Promulgation

Accordingly, § 17.12 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Section 17.12 is amended by adding, in alphabetical order by family, genus, species, the following plant: